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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,151	11/05/2003	John L. Manuel	200300161-1	7814

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EXAMINER
SEYE, ABDOU K

ART UNIT	PAPER NUMBER
2194	

NOTIFICATION DATE	DELIVERY MODE
03/12/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<table>
<tr><td colspan="2">-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</td></tr>
</table>

Office Action Summary

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>12 November 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-31 and 33-44</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-31 and 33-44</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>05 November 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Response to Amendment

1.   The amendment filed on November 12, 2007 has been received and entered. The

amendment amended Claims 1, 8-11, 13-14, 24-25, 27, 31, 33-35 and 40; and cancelled

claim 32. The currently pending claims considered below are Claims 1-31 and 33-44.

Specification objection.

2.   In paragraph 31, lines 10-11, reciting "The computer-readable medium ....

medium now known or later developed."; and in paragraph 31, lines 4-6, reciting "

technologies later developed " (emphasis added) that Such medium and system "later

developed " are non existing, so one cannot have/process, what's not even exist just

yet.

 Appropriate corrections are required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

 4. Claims 6, 28, 35 and 40 are rejected under 35 U.S.C. 112, first paragraph, because

the specification, while being enabling directing the selected proxy to create the object

represented by the selected object proxy, does not reasonably provide enablement for

generating a peripheral device driver. The claim(s) contains subject matter "generate a

driver" that was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application

was filed, had possession of the claimed invention. This is a written description

rejection.

Dependent claims, 29-30, 36-39 and 41-44 are also affected by these claims

rejections.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or
> composition of matter, or any new and useful improvement thereof, may obtain a patent
> therefore, subject to the conditions and requirements of this title.

Claims 24, 34 and 40 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter. The claims are directed to a signal

directly or indirectly, by claiming a medium and the specification recites evidence where

the computer-readable medium is defined as a *"wave"* (such as a carrier wave). The

specification in this instance (see page 8, paragraph 31) provides intrinsic evidence of

communications connection and signal considered to fall within the broadest

reasonable interpretation of computer-readable medium. These examples include

computer storage media and communication media. While the computer storage media

would establish a statutory category of a machine or manufacture, the communication

media include forms of energy (e.g., data signals and carrier waves) and media (e.g., a

wire) which are not functionally or structurally interconnected with the instructions in

such a manner as to enable the instructions to act as a computer component and

realize any functionality they may possess. Thus, the claims are directed to a form of

energy that, at present, the office consider to be non-statutory subject matter.

Dependent claims 25-30 and 41-44, are affected by these claims rejections.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

7. Claims 1-31 and 33-44 are rejected under 35 U.S.C. 103 (a) as being unpatentable

over **Shier et al. (US 7181382)** in view of **Malaviya et al (US 6477520).**

Claims 1, 8, 14, 24, 31, 33, 34, 35 and 40, <u>Shier</u> teaches, system, product and method

for creating a best-match object at run time, comprising the steps of:

receiving a request for an object (Fig. 2; col. 7, lines 50-54; col. 14, lines 45-50) ;

polling a plurality of object proxies for a confidence level representing the

capability of each respective proxy to generate the requested object, each object proxy

representing and configured to create a particular object (Fig 3A/B; Fig. 4; col. 15, lines

7-58); and

directing the selected proxy to create the object represented by the selected

object proxy (Fig. 4; col. 15, lines 7-58).

receiving, from each of the plurality of object proxies, a confidence level

indicative of that object proxy's ability to generate the requested object;

selecting one of the proxies based on the received confidence levels.

However, <u>Shier</u> does not explicitly teach receiving, from each of the plurality of

object proxies, a confidence level indicative of that object proxy's ability to generate the

requested object; selecting one of the proxies based on the received confidence levels.

Whereas, in the same field of endeavor; creation of objects <u>Malaviya</u> discloses a

confidence analyzer for monitoring the selection of component objects associated with a

series of fuzzy operations; fuzzy objects that include values (low, medium and hight);

and a selecting objects based on these confidence level (Fig. 5, col. 13, lines 25-67;

col. 15, lines 30-60; col. 18, lines 10-50).

It would be obvious to a person of ordinary skill in the art at the time the invention

was made to modify Shier's invention with Malaviya's invention to use confidence level

values as a basis for selecting from a group of proxies object. One would be motivated

to include a confidence level analyzer for a decision making process to selecting from

a plurality object proxies in order to efficiently calculate true cost of travel in a travel

purchasing optimization system (Malaviya's; col. 3, lines 8-28).

As to claim 2, Shier teaches, wherein the step of receiving a request for an object

comprises receiving indicia of a peripheral device (Fig. 1; col. 5, lines 19-35).

As to claim 3, Shier further teaches , wherein indicia comprises a device identifier (col.

10, lines 33-46).

As to claim 4, Malaviya teaches, wherein the step of selecting one of the proxies

comprises comparing each confidence level with a previously received confidence level

(abstract; col. 19, lines 44-64).

It would be obvious to a person of ordinary skill in the art at the time the invention

was made to modify Shier's invention with Malaviya's invention to use confidence level

values as a basis for selecting from a group of proxies object. One would be motivated

to include a confidence level analyzer for a decision making process to selecting from

a plurality object proxies in order to efficiently calculate true cost of travel in a travel

purchasing optimization system (Malaviya's; col. 3, lines 8-28).

As to claim 5, Shier teaches, wherein the step of selecting one of the proxies comprises

storing an index associated with a proxy having a greater confidence level (col. 15, lines

20-26).

As to claim 6, Shier teaches, wherein the step of directing the select one of the proxies

to create the object generates a peripheral device driver (col. 15, lines 1-26).

As to claim 7, Shier teaches the step of: registering a new proxy capable of creating an

object designated for use with a new peripheral device (Fig. 3A; col. 12, lines 20-32) .

Claim 19, Shier teaches, wherein the interface is configured to receive a device

identifier associated with a printer (col. 1, lines 25-27)

As to claims 9-13, 15-18, 20-23, 35-30, 36-39 and 41-44, are rejected for the same

reasons as the claims above.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to the

applicant's disclosure.

Nagasaka et al (6725300) discloses a control device for controlling the transmission and receipt of data and a method of determining the transmitter and the receiver of the data.

Brumley et al (5926775) discloses a mini driver software architecture for a data acquisition system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone number for formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

AKS
February 14, 2008

/Thomson D. William/

Supervisory Patent Examiner, Art Unit 2194